

## **RULES AND PUBLIC POLICY COMMITTEE**

**DATE:** March 31, 2010

**CALLED TO ORDER:** 5:30 p.m.

**ADJOURNED:** 6:23 p.m.

### **ATTENDANCE**

#### ATTENDING MEMBERS

Robert Lutz, Chairman  
Bob Cockrum  
Monroe Gray  
Angela Mansfield  
Mike McQuillen  
Angel Rivera  
Ryan Vaughn

#### ABSENT MEMBERS

Joanne Sanders

### **AGENDA**

PROPOSAL NO. 79, 2010 - supports an open and transparent discussion concerning the proposal to sell or to otherwise dispose of water-related resources, water facilities, assets and properties of Indianapolis Water, and that any such disposition or decision to retain such assets be a matter reserved to the City-County Council  
"Postpone" until April 13, 2010

Vote: 7-0

PROPOSAL NO. 85, 2010 - approves the statement of benefits of Companion Diagnostics, Inc., an applicant for tax abatement for property located in an Economic Revitalization Area  
"Do Pass"

Vote: 7-0

PROPOSAL NO. 96, 2010 - approves the Mayor's establishment of a charter school, "Site 1 - St. Andrew/St. Rita" by issuing a charter to ADI, Inc.  
"Do Pass"

Vote: 7-0

PROPOSAL NO. 97, 2010 - approves the Mayor's establishment of a charter school, "Site 2 - St. Anthony" by issuing a charter to ADI, Inc.  
"Do Pass"

Vote: 7-0

PROPOSAL NO. 102, 2010 - supports the Second Amendment to the United States Government, Article 1, Section 32 of the Indiana Constitution, and the position of Indiana Attorney General Greg Zoeller, recently argued before the United States Supreme Court, that the Second Amendment applies to states and local units of government  
"Do Pass"

Vote: 5-2

## **RULES AND PUBLIC POLICY COMMITTEE**

The Rules and Public Policy Committee of the City-County Council met on Wednesday, March 31, 2010. Chairman Robert Lutz called the meeting to order at 5:30 p.m. with the following members present: Bob Cockrum, Monroe Gray, Angela Mansfield, Mike McQuillen, Angel Rivera, and Ryan Vaughn. Joanne Sanders was absent. Councillor Ed Coleman was also in attendance. General Counsel Robert G. Elrod represented Council staff.

Chairman Lutz asked each Committee member to introduce themselves and indicate which district they represent. He welcomed new Council member Angel Rivera to the Committee.

PROPOSAL NO. 79, 2010 - supports an open and transparent discussion concerning the proposal to sell or to otherwise dispose of water-related resources, water facilities, assets and properties of Indianapolis Water, and that any such disposition or decision to retain such assets be a matter reserved to the City-County Council

Councillor Mansfield moved, seconded by Councillor Vaughn, to "Postpone" Proposal No. 79, 2010 until April 13, 2010 due to the fact that the sponsor of the proposal, Councillor Sanders, is out of town. The motion carried by a vote of 7-0.

PROPOSAL NO. 85, 2010 - approves the statement of benefits of Companion Diagnostics, Inc., an applicant for tax abatement for property located in an Economic Revitalization Area

Stephanie Quick, Assistant Administrator, Division of Community and Economic Development, Department of Metropolitan Development (DMD), stated that a 2008 state law passed requiring Council approval, in addition to approval from the Metropolitan Development Commission (MDC), for tax abatement projects that are located in certain allocation areas, commonly known as tax increment financing (TIF) districts. This project falls within that category. The project is located at 351 West 10<sup>th</sup> Street, within the Indiana University Emerging Technology Center (IUETC), in Center Township, Council District 15. She briefly explained how tax abatements work. Tax abatement is a tool the city uses to attract and retain well-paying jobs. Abatements do not mean that these companies do not pay property taxes; the companies pay their taxes and are required to make an additional capital investment. The abatement is then applied to that additional investment. The state determines the amount that can be applied to the investment. The abatement decreases over a period of time, and these companies end up paying full taxes after the abatement period ends. Ms. Quick said that Companion Diagnostics, Inc. (CDI) is a start-up company that will lease space in the IUETC, which

is a business incubator that primarily focuses on emerging life science companies. CDI will provide equipment and services for in-home screening and diagnostics, primarily focused on indicators relative to diabetes and vascular disease. To facilitate their growth, CDI is moving assets from Connecticut to Indianapolis and establishing a screening facility. CDI will provide screening and diagnostics for commercial and academic healthcare life science entities, including Lilly, Roche, Glaxo and Indiana University Purdue University of Indianapolis (IUPUI). The company will immediately transfer and install current assets valued at \$5.5 million to the lab space at the IUETC. As they grow, CDI will invest an additional \$10 million in equipment to further develop the diagnostic screening devices and processes. The city is recommending a two-year property tax abatement on the company's investment of \$15.5 million, installed over the next four years. The project will retain six jobs and create an additional 30 jobs at an average wage of \$43 an hour. Ms. Quick said that the value of the two-year tax abatement is just over \$290,000 over the life of the abatement.

Chairman Lutz asked if the taxes are only abated for two years, then what amount will the company pay once that abatement has ended. Dustin Jones, DMD, stated that it is estimated that they will be paying \$119,558 annually after the abatement period and the investment. He said that the first year, CDI would receive a 100% deduction, with a 50% deduction the second year, and then pay the full amount going forward. Chairman Lutz stated that the city would then earn back that two-year abatement within two to three years, with an additional 30 jobs at \$43 an hour.

Councillor Gray asked if they are bringing the six current jobs with them with the transfer. Ms. Quick answered in the affirmative. Councillor Gray asked when the other 30 jobs will be created. Ms. Quick said that they will create 10 jobs by 2011, an additional 12 jobs by 2013, and the remaining eight jobs by 2014.

Chairman Lutz called for public testimony. There being none, he welcomed former Councillor Lonnell Conley in the audience this evening.

Councillor Vaughn moved, seconded by Councillors Mansfield and Cockrum, to send Proposal No. 85, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

Chairman Lutz asked for consent to hear Proposal Nos. 96 and 97, 2010 together. Consent was given.

PROPOSAL NO. 96, 2010 - approves the Mayor's establishment of a charter school, "Site 1 - St. Andrew/St. Rita" by issuing a charter to ADI, Inc.

PROPOSAL NO. 97, 2010 - approves the Mayor's establishment of a charter school, "Site 2 - St. Anthony" by issuing a charter to ADI, Inc.

Karega Rausch, Indianapolis Charter Schools, Office of the Mayor, stated that he will not review the process for charter school approval again for the committee as he normally does, but has handouts on the process for those who are not familiar with it. He said that it is a very rigorous process and only the best applicants make it to this point.

Chairman Lutz stated that as a point of personal privilege, he would like to recognize Reverend Boniface Hardin, Martin University founder, and Bill Polian, President of the Indianapolis Colts, in the audience this evening, as well.

Connie Zittnin, director of Mother Theodore Catholic Academies, introduced Holly McKiernan, representing the Catholic Archdiocese of Indianapolis (ADI) board of directors and Lumina Foundation for Education. Ms. Zittnin stated that they are appearing before the committee as part of the process in transforming St. Andrew/St. Rita and St. Anthony into Mayor-sponsored charter schools to open this coming fall. She said that across the nation, many urban Catholic schools are faced with tough choices and many are closing. ADI Charter Schools, Incorporated will fill an urgent and unmet need in urban Indianapolis by providing two new secular schools that will prepare students for productive futures. The ADI founding board of directors has a strong commitment to keeping these two important assets in the community that they serve. Ms. Zittnin said that their board includes Tori Callahan, M.A. Rooney Foundation; former mayor Stephen Goldsmith, Harvard University's School of Government; Mark Guess, State Auto Insurance Company; Carmen Hansen-Rivera, Strategic Leadership Consulting, LLC; Ms. McKiernan; Monsignor Joseph Schaedel, ADI Vicar General; and Jeffrey Stumpf, ADI Chief Financial Officer. This highly engaged board of directors has already met several times to prepare for the proposed transformation. In January, 2010, the ADI board met to approve a secular nature of operations policy to insure all aspects of governance and operational activities will conform with federal and state laws. The board will establish an orientation program for board members and school employees to communicate the secular nature of the school's operations. Additionally, the board will work to deter public perception that the state is in any way endorsing a religion or religious practices. ADI will only maintain a relationship with the schools through the board, while the Mother Theodore Catholic Academies will actually oversee the operations of the school.

Ms. McKiernan stated that ADI's ultimate goal is to prepare students for high school and life after graduation. By following Indiana's academic standards, the schools would be able to build on each student's content knowledge and mastery of skills for his or her grade level using various instructional methods. With 190 instructional days, students will receive a well-rounded education, focusing on whole student philosophy, which incorporates character development, self esteem and community pride into all aspects of the curriculum. She said that they have created five education performance goals, as follows:

- Seventh grade students returning to school in the eighth grade will successfully complete Algebra I and pass the Algebra I exit exam.
- Seventh grade students returning to school in the eighth grade will be prepared to take freshman-level English Arts classes.
- Students preparing at or above grade level in all grades will sustain or increase annual growth in math and English Language Arts. Students performing below grade level will obtain grade level within three years.
- All students will learn to make good choices based on strong character values, and school faculty will maintain a rich environment for developing students' character.
- The school and Mother Theodore Catholic Academies will work collaboratively to increase school enrollment through retention of current students and recruitment of new students.

Ms. McKiernan said that character education will be based on the Josephson Institute's Character Counts curriculum, the most widely implemented approach to character education. This program is designed to provide a holistic, non-religious education that successfully addresses the cognitive, social and emotional needs of all students through six pillars: trustworthiness, respect, responsibility, fairness, caring and citizenship. ADI will take a secular approach to reinforce basic human values that transcend religious and cultural differences and express common humanity, affirm human dignity, promote the development and welfare of the individual person, and serve the common good. Ms. McKiernan stated that the focus on character will not be an afterthought, but an intentional part of every aspect of the school. She said they knew that developing an innovative approach would be hard work, but they also knew it would be necessary in order to protect the future of their students. Through a robust community outreach, they have been able to discuss the transformation process in more than 40 meetings with parents, teachers, the church parishes, community leaders, elected officials and other key stakeholders. She said that the overwhelming majority have provided support. Ms. McKiernan stated that they received unanimous approval from the Indianapolis Charter School Board and the green light from Mayor Greg Ballard, and they look forward to continuing the journey and would ask for the committee's support.

Chairman Lutz stated that he was remiss at the beginning of the meeting to recognize Councillor Ed Coleman, who is also in attendance at tonight's meeting, and asked Councillor Coleman to introduce himself and indicate which area of the county he represents.

Councillor Mansfield said that usually when a charter is recommended, they already have a track record with statistics of existing schools, which makes the decision easier. She asked what the capacity of students is for each school. Ms. Zittan stated that St. Andrew/St. Rita will have a capacity of 360 students, and St. Anthony will have the capacity for 280 students. Councillor Mansfield asked what the geographical area is where most of the students come from for these schools. Ms. Zittan said that for the first location, most of the students are from the near eastside, with 89% being from the

Indianapolis Public Schools' (IPS) district, and 7% coming from Lawrence Township. The westside location also has 89% of their students from the IPS district, with about 7% coming from Wayne Township.

Councillor Gray said that there are two existing sites for St. Rita and St. Andrew, and he asked if they are keeping two sites. Ms. Zittnan said that those two schools were merged together eight years ago, and they will be located at one site located at 4050 East 38<sup>th</sup> Street. Councillor Gray asked if the St. Rita site will not be used, then, and all the students will go to the St. Andrew site. Ms. Zittnan confirmed that this is the case. Councillor Gray said that he has a little history with St. Rita and is not particularly happy about that. He said that there was a recent incident at the Statehouse with preachers coming forward saying that they did not want church and state mixed. He said that there were some concerns about discipline in the school, and one of the representatives was brutalized in the newspapers by some of the local ministers stating that he was trying to control their schools. He asked how this is different from that. Ms. Zittnan said that she is not familiar with the incident Councillor Gray is referring to, but the basis for their character education will be Character Counts, which is a secular program that many public school districts around the country use. She said that the discipline policy is also secular in nature and they have passed that through attorneys who have confirmed that. Councillor Gray said that he just wants to make sure that if these proposals pass, and legislation is passed, that these will hold up. He said that he has a lot of friends who attend St. Andrew who have him on their prayer list to vote in favor of this measure, and so that those friends will not lose faith in prayer, he will support the proposals. Mr. Rausch stated in response to Councillor Gray's questions that the board of directors was created to be fully independent of the church, and they are the charter holders and in governance of the school. He said that they have had separation of church and state issues with other charters, and they fully examine each of these charters to make sure there are no church and state issues. Chairman Lutz asked if this applies to St. Anthony also. Mr. Rausch replied in the affirmative and added that the same board will oversee both sites.

Chairman Lutz called for public testimony.

Reverend Boniface Hardin said that he lives within the vicinity of St. Rita/St. Andrew and has been aware of the movement to have these schools. He said that it was tradition when he was a parish priest and when he was at Martin University to serve all the people in their neighborhood, and he urges the committee to support the proposals. He said that the people of faith will continue to serve their community, but most of the people they serve are not Catholic.

Michael Newar, parishioner of St. Andrew and former student of St. Andrew/St. Rita, said that growing up in that neighborhood was very difficult, and the school gave him the tools he needed to make him the citizen he is today. He said that it is not his Catholic faith that drives him, but the principles instilled in the students. He said that it is important to realize that children need this type of growth. He added that over 90% of

the students are non-Catholic, but the curriculum helps them grow into better citizens. He said that it has less to do with religion and more to do with character, and he asked the committee for their support.

Gloria Gillia stated that her daughter is a 5<sup>th</sup> grader at St. Anthony, and the community needs a school with good standards and values. She said the children are the future, and the priority is to teach them good values and respect for others. She added that if the school becomes a charter, she hopes they will keep their values and continue to provide an excellent resource for the community. She said that many families will be affected if the school becomes a charter, and parents who cannot afford it will not have to pay tuition in order to insure their child with a quality education.

Jessi Perez said that her daughter also attends St. Anthony, and the education there is tremendous due to the values and the respect taught there. She said that the community is becoming stronger because of the school and there is great motivation among the neighbors to support such efforts. She said that she also hopes the standards stay the same and hopes staff members remain to carry on relationships with her daughter. She is a parent interested in getting involved in the community and is willing to help in any way to help the community grow and become more united.

Lonnell Conley stated that he is the political liaison for the Interdenominational Baptist Ministerial Alliance and serves as the executive assistant to the president of the Baptist Ministerial Alliance, which represents 1,100 churches in the Seventh Congressional District. He said that he did a lot of foot-peddling in the neighborhoods, and the neighbors really do support this initiative and would like for it to happen. He said that he believes it would be the first of many across the country to follow suit, and he asked for the committee's utmost consideration.

Councillor Gray asked where St. Anthony is located. Ms. Zittnan stated that it is located at the corner of Warman Avenue and New York Street, across the street from the old State Hospital on the westside.

Councillor McQuillen moved, seconded by Councillors Mansfield and Gray, to send Proposal Nos. 96 and 97, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 7-0.

PROPOSAL NO. 102, 2010 - supports the Second Amendment to the United States Government, Article 1, Section 32 of the Indiana Constitution, and the position of Indiana Attorney General Greg Zoeller, recently argued before the United States Supreme Court, that the Second Amendment applies to states and local units of government

Chairman Lutz stated that he believes in the digest, the words "United States Government" should instead read "United States Constitution." Councillor Coleman stated that this is correct. He said that this resolution is a simple non-binding resolution

to support a citizen's right to bear arms according to the Constitution. He said that they may need to amend the resolution further, as there are now 33 state attorneys general that have signed on instead of the 31 mentioned in the resolution. He said that he would like to have seen it voted on at the Council on the floor last meeting, but would definitely like to see it pass and be sent to the appropriate parties before there is a ruling on the matter, because a vote after the fact would be moot.

Chairman Lutz stated that he failed to acknowledge former Councillor Bill Dowden, who is also in the audience this evening.

Councillor Vaughn asked if there is any difference between this case pending in Chicago and the Supreme Court's ruling in the Washington D.C. case. Councillor Coleman said that he is not an attorney and received most of his information from an organization that recently pled before the Supreme Court, but he would assume there is not much difference from what he has heard. Councillor Vaughn asked if the attorney general filed an amicus brief in the D.C. case. Councillor Coleman said he does not know if one was filed in the D.C. case, but one has been filed in the Chicago case. Mr. Elrod said that the main difference is that the District of Columbia (D.C.) is federal territory, and that case did not reach beyond the federal constitution. He said that this case has to do with an ordinance in the city of Chicago, and it is a question of whether the 14<sup>th</sup> Amendment or state law can further extend the federal Second Amendment. He said that the 14<sup>th</sup> Amendment applies most of the Constitution to the states, but the question is whether or not it applied this provision of the Second Amendment to the states. He said that he is not a Constitutional lawyer, but he believes that to be the major difference between the two cases.

Councillor Vaughn referred to Section 5 of the proposal and said he is not sure what Councillor Coleman is intending to convey with that section. Councillor Coleman said that this section is pretty straightforward and clear that the Council is not going to pass any laws that would "frustrate, impede, delay or otherwise harass the fundamental and inherent right to keep and bear arms." Councillor Vaughn asked if after the Chicago case decision is rendered, and none of the local ordinances go against that ruling, then the city would then be in compliance with that section. Councillor Coleman said that this sounds reasonable.

Councillor Mansfield said that she has concerns about the appropriateness of this proposal even coming before this body. She said that it is a legal issue under consideration by the U.S. Supreme Court, and they do not rule based on a popularity contest. Therefore, she does not see the merit of this proposal, as it does not involve local laws. She moved, seconded by Councillor Gray, to "Table" Proposal No. 102, 2010. The motion failed by a vote of 3-4, with Councillors Lutz, McQuillen, Rivera and Vaughn casting the negative votes.

Councillor Coleman said that this is not a binding resolution and is simply taking a stance and saying that this body supports the Constitution and that they will not support



laws that go against that Constitution. He said that this Council passes these types of resolutions all the time.

Chairman Lutz asked if each Councillor did not in effect accomplish such when they took their oaths to support and defend the Constitution of the United States and the Constitution of the State of Indiana. He said that he has no problem with the Second Amendment and he swore to defend it, but it has 26 brothers and at least one sister. This proposal singles out one Amendment over all those others. He said that each Councillor might have a different favorite amendment, his being the Sixth Amendment, regarding the right to counsel. He said that Councillor Mansfield might be partial to the 19<sup>th</sup> Amendment and Councillor Gray may feel strongly about the 13<sup>th</sup> Amendment. He said that none of these apply to the states without the 14<sup>th</sup> Amendment. He said that he cannot say that he does not support the Second Amendment, because he has a permit and a handgun, which he does not carry for fear of shooting himself in the foot, but he feels this is putting undue stress on one particular Amendment to the Constitution.

Councillor McQuillen said that he does not want to overthink this since it is non-binding. However, with the way Section 5 is written, if they did not have the law for metal detectors in the City-County Building and wanted to add them so that people would not be carrying guns into the courtrooms, he asked if Section 5 would preclude them from thinking through these types of things. Councillor Vaughn said that this is kind of the same question he had asked, which is to say if city ordinances are not violating the rulings handed down by the Supreme Court on the Chicago and D.C. cases, would they then be consistent with Section 5 of this proposal. He said that Councillor Coleman's answer to him was that they would be consistent. He said that given that response, the Council would still be free to enact ordinances and regulate an already-regulated activity, as long as it does not violate case law from the Supreme Court.

Councillor McQuillen asked if an amendment needs to be offered to clean up the faulty language mentioned earlier. Chairman Lutz said that the first typo is simply in the digest and not a part of the ordinance and can be a technical correction. He said that they could amend the number of attorneys general, but by the time they pass it, that number could change again.

Chairman Lutz said that the complexity of this issue was hinted at, and Councillor Coleman said that it is a simple thing. However, he held up a one-page document with a few lines that showed the Second Amendment, which contains 27 words. Chairman Lutz then held up 60 pages of the latest Supreme Court case law interpretation of those 27 words. He said that it is very in-depth and there is quite a bit there to read, and it is not necessarily that simple.

Councillor Coleman said that it is not that he is trying to single out one specific Amendment, but if the attorney general decided tomorrow that he wanted to file a case regarding the Sixth Amendment or 19<sup>th</sup> Amendment, he would support that as well. He

said that this is an opportunity for this body to get behind and support the state's attorney general.

Chairman Lutz called for public testimony.

Bill Dowden, member of the board of directors of the State Rifle and Pistol Association, said that this association supports the competitive shooting sports and helps to teach safety in firearm use, and he is here to voice their support of this proposal. He said that the attorney general did sign onto the amicus brief in the D.C. case, as did Attorney General Zoeller in this case. He said that a majority of the state legislators have passed a resolution such as this supporting their attorney general. He said that with regard to Section 5, he is not sure who drafted the proposal, but that language may have been copied directly from federal law, as these words were specifically used. He said that there are people and groups trying to interfere with and impede the right to bear arms. He said that Congress was aware of it and passed a firearms owners protection act because they found people were disobeying and impeding that right and they put it into law in 1986. He said that this is not referring to criminals, but to law-abiding citizens. He said that he is surprised this did not pass easily on the Council floor and was instead referred to committee. He said that voting in favor of the proposal puts them "on the side of angels" and in line with the founding fathers of this Country. He said that the right to bear arms was even included specifically in the Freedoms Bureau Act and Civil Rights Act in the 1800's to give blacks the same rights as every citizen. He urged members to support the proposal.

Councillor Vaughn asked if there is a distinction between the Chicago case and D.C. case. He said that as he understands it, in the D.C. case, the subject had to be granted a permit to possess a firearm in his home. He asked if the Chicago case allows a person to carry a firearm outside of the home. Mr. Dowden said that the D.C. case was a drastic issue and actually forbade ownership. He said in this Chicago case, 30 plus attorneys general have signed onto the amicus brief, and this is not a partisan issue, but is an issue of basic freedom allowed to all citizens.

Chairman Lutz said that he does not see anywhere in this case where it prohibits local entities from regulating firearms or handguns. Mr. Dowden said that it will not affect state law in that way and is not an issue in this case. Chairman Lutz said that he wanted to make it clear that approving this was not saying that the city could not make regulations on firearms, within state and federal law. Mr. Dowden stated that this is also his understanding.

Councillor Rivera stated that he feels that government officials spending time and energy passing resolutions that ultimately cannot change anything is a waste of time for the citizens. He said that even though he agrees with every word in the resolution and much of the discussion, they should move along and dispense with the issue, because when they are done with it, the result will not change the lives of anyone in America.

Councillor Vaughn moved, seconded by Councillors McQuillen and Rivera, to send Proposal No. 102, 2010 to the full Council with a "Do Pass" recommendation. The motion carried by a vote of 5-2, with Councillors Gray and Mansfield casting the negative votes.

There being no further business, and upon motion duly made, the meeting was adjourned at 6:23 p.m.

Respectfully Submitted,

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Robert Lutz Chairman

RL/ag